THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23390 OF 2005

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Dt:31.10.2005

Between:

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J.Ram Mohan Rao

… Petitioner

and

The Govt. of A.P., and others

… Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.23390 OF 2005

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ORDER:

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The petitioner was selected as a Mechanic, Grade-II in Visakhapatnam Port Trust in the year 1979, against a vacancy reserved in favour of scheduled tribes. It is stated that verification of the social status of the petitioner went on for about two years and it was only on being satisfied that the caste certificate of the petitioner is genuine, that he was issued orders of appointment in the year 1981. Several attempts are

said to have been made to assail the social status of the petitioner.

Recently, proceedings were initiated under the provisions of the Andhra Pradesh (S.C., S.T., & B.Cs.) Regulation of Issue of Community Certificates Act, 1993 (for short 'the Act') against the petitioner and ultimately through order, dated 14.09.2005, the District Collector, the second respondent, cancelled the caste certificate of the petitioner. Aggrieved thereby, the petitioner preferred an appeal before the first respondent under Section 7 of the Act, together with an application for stay. The first respondent rejected the application for stay, through order, dated 07.10.2005. The same is challenged in this writ petition.

Sri K.V.Subrahmanya Narusu, the learned counsel for the petitioner submits that that even before the petitioner was issued orders of appointment, an enquiry was conducted and the petitioner was appointed only on being satisfied that he belongs to scheduled tribe. He has also drawn the attention of this Court to the endorsement, dated 16.03.1982, made by the appointing authority to the effect that the complaint submitted by one Mr.Appa Rao was examined thoroughly and that the claim of the petitioner is found to be genuine. The learned counsel points out that despite these developments, proceedings were initiated against the petitioner under the Act and orders of cancellation were passed, without considering the relevant facts, such as, that the father of the petitioner was employed against a reserved vacancy, as Kondakapu, way back in 1950 and continued to enjoy the benefit till he retired from service. He submits that since the appeal, is continuation of the original proceedings, the first respondent ought to have granted stay.

The learned Government Pleader, on the other hand, submits that the petitioner had approached this Court on several occasions and it is only after complying with the directions issued in the writ petitions and after conducting a thorough enquiry that the second respondent passed the order of cancellation. He contends that once it has emerged that the petitioner does not belong to schedule tribe, he cannot be permitted to derive the benefit of the reservation.

Inasmuch as the appeal preferred by the petitioner under Section 7 of the Act is pending, it is not necessary or permissible for this Court to undertake any discussion on the merits of the matter. The entire issue is at large, before the appellate authority. Being a statutory appeal, it is almost a continuation of the original proceedings. Except where extraordinary circumstances exist, the state of affairs which exist

during the pendency of the original proceedings, are required to be continued till the appeal is disposed of. If the petitioner is exposed to the situations, such as dismissal from service or prosecution on the strength of the order passed by the second respondent, even while the appeal is pending, nothing remains to be decided.

In that view of the matter, the writ petition is disposed of directing that the order of cancellation of caste certificate, passed by the second respondent against the petitioner shall remain stayed in all respects, till the first respondent disposes of the appeal preferred by the petitioner. The first respondent shall endeavour to dispose of the appeal, within a period of three months from the date of receipt of a copy of this order.

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31.10.2005

kdl